

December 18, 2008

Mr. Kirkpatrick called the meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m. The Sunshine Statement was read.

Members Present: Mr. Mazza, Mr. Martin, Mr. Taibi, Mr. Badenhausen, Mr. Ryland, Mr. Ford, Mr. Kirkpatrick

Members Absent: Mr. Bischoff, Mrs. Corcoran, Mr. Walchuk

Others Present: Atty. Yolanta Mariarz, Atty. John Reymann, Carl Hintz, Atty. James Knox, Andrew Holt, Gordon Stuart

Approval of Minutes: Mr. Mazza made a motion to approve the minutes of the October, 23, November 5 and November 20, 2008 meetings. Mr. Ryland seconded the motion.

Vote: All Ayes, No Nays, Motion Carried

Issue of Completeness: Republic Services of NJ, LLC: Block 22, Lot 30.03, Route 173 East: Mr. Reymann recommended the application be deemed complete. He said applicant needs to provide a signed/sealed copy of the survey. Mr. Ford made a motion to deem the application complete, pending submission of the survey. Mr. Badenhausen seconded the motion.

Vote: Ayes: Mr. Ford, Mr. Badenhausen, Mr. Mazza, Mr. Martin, Mr. Taibi, Mr. Ryland, Mr. Kirkpatrick

Bulvanoski: Block 22, Lots 9 & 10, Frontage & Everett Roads: Mr. Reymann had reviewed the application for two single family residential dwellings. He said the property is in the VC District and single family homes are not a permitted use. Mr. Reymann also noted that numerous other completeness items have not been addressed. Also, a checklist had not been submitted and bulk requirements have not been listed. Therefore, he recommended the application be deemed incomplete. Atty. Mariarz noted there is still pending litigation in this matter. A Stipulation of Settlement has not yet been signed. Ms. Mariarz had spoken to applicant's attorney and the signed Stipulation should be forthcoming. A use variance will be required for the proposal. Mr. Kirkpatrick asked for a motion. Mr. Ford made a motion to deem the application incomplete. Mr. Ryland seconded the motion.

Vote: Ayes: Mr. Ford, Mr. Ryland, Mr. Mazza, Mr. Martin, Mr. Taibi, Mr. Badenhausen, Mr. Kirkpatrick

Public Hearing: Perryville Wine & Spirits: Block 12, Lot 8.04, 72 Route 173 West: Atty. Mariarz reviewed Notice Documents. They were found to be in order, giving the Board jurisdiction to hear the matter. The application had been carried from the November 20, 2008 meeting. Mayor Mazza and applicant, Joseph Martin, recused themselves prior to the Hearing. Atty. James Knox, representing Perryville Wine & Spirits, gave a brief overview of the Use and Preliminary and Final Site Plan application.

Mr. Knox asked Gordon Stuart, owner of the Business, to come forward to present testimony. Mr. Stuart was sworn by Atty. Mariarz. Mr. Stuart has owned the business for 6-1/2 years. He explained that it was necessary to expand the business in order to compete with larger liquor stores. Today's patrons are seeking a greater variety of products than when the store was built in the 1980's. Mr. Stuart said the average liquor store in Northern New Jersey is between 8,000 and 10,000 square feet. Perryville presently has approximately 3,000 square feet and would be expanded to 6,000 square feet. Mr. Stuart said the appearance of the building would be improved with the proposal before the Board. Atty. Knox asked that the record show there are no visitors at tonight's meeting. Mr. Kirkpatrick asked about the possibility of a second floor. Mr. Stuart indicated it would not be practical.

Atty. Knox asked Andrew Holt to come forward. Mr. Holt was sworn by Atty. Mariarz. Mr. Holt is a Professional Engineer and Planner. His credentials were accepted as presented. Mr. Holt had testified before the Board for other applicants. Atty. Knox asked Mr. Holt to provide testimony about what applicant is seeking. Mr. Holt displayed an Exhibit showing Existing Conditions. It was marked A-1. The Exhibit depicts an existing one-store building, a paved parking lot in the front, two accesses to Route 173 and a circular loop behind the building for unloading deliveries to the store. There is an Exxon Service Station to the east and property north and west of the site is State owned.

Mr. Holt displayed another Exhibit showing the proposed Site Layout Plan. It was marked A-2. Mr. Kirkpatrick asked Mr. Holt about the Wetlands Area. Mr. Holt pointed out the Wetlands Transition Area Boundary that runs through subject property. He said the Existing Wetlands Limit is shown on the State owned property. Mr. Holt said applicant has a Wetlands Transitional Area approval. Applicant will have to apply for a renewal of that approval. Mr. Kirkpatrick asked about steep slopes. Mr. Holt said there is an area along the northwestern part of the property that probably exceeds 10%. There is a retaining wall to the east by the Exxon facility. The footprint of impervious surface coverage will not be increased. Mr. Holt said, in fact, it will decrease slightly.

Mr. Holt said the proposed addition would be in conflict with the existing circular driveway. Applicant proposes elimination of that driveway and creation of a parking and loading area on the west side of the building. Atty. Knox asked Mr. Holt to present positive criteria of the "D" Use Variance. Mr. Knox said the Use is pre-existing, non-conforming and which was made nonconforming by a zoning change. The proposed expansion constitutes the need for the "D" Variance. Mr. Holt provided positive criteria. There will be enhanced lighting that will conform to requirements of the Land Use Code. Upgraded landscaping will also meet requirements of the Code. Mr. Holt addressed the issues of minimum lot size and maximum building and impervious surface coverage ratios. Mr. Holt addressed the possibility of a second story. He indicated it would have less aesthetic appeal.

Atty. Knox asked Mr. Holt to address negative criteria. Mr. Holt explained there would be minimal negative impact and the proposal fits in with the overall goals of the Master Plan. Applicant proposes improving storm water management on the site. Mr. Holt does not believe that approval of the Variance would be setting a precedent. He noted the variety of uses along the Route 173 Corridor.

Mr. Holt addressed Site Plan issues. He referenced Exhibit A-1 and the existing storm water management. Mr. Holt said management is minimal. He referenced Exhibit A-2. Mr. Holt said the application is not considered major development. However, storm water management enhancements are proposed. Applicant will be meeting with NJDOT regarding minor changes to curb radius of exits and entrances. Thirty-three parking spaces are proposed, as required by Ordinance. Mr. Holt displayed an Exhibit showing the Lighting Plan and Details. It was marked A-3. Mr. Hintz asked for additional information on Lighting. Mr. Holt displayed an Exhibit showing the Landscaping Plan and Details. It was marked A-4. Mr. Holt described the proposed plantings. He said applicant will work with Mr. Hintz on that matter. Mr. Kirkpatrick had a question about the designated loading area provision of the Ordinance. He said it was not shown on the Plan and thought a bulk variance might be required. Atty. Knox thought a waiver might be required. He said, however, the matter needs to be discussed further.

A question was asked about deliveries. Mr. Stuart said they are made Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m. Mr. Kirkpatrick asked if deliveries interfered with employee parking. Mr. Stuart said it hadn't. Deliveries to the store are made utilizing a hand truck. Mr. Holt said there is an on-site well and septic system. Mr. Kirkpatrick asked about the number of employees. Mr. Stuart said it would either be the same or fewer. Mr. Stuart said no rest room facilities are or will be provided for the general public. Therefore water usage should not increase.

Architect Wilbur Lupo came forward to provide testimony. Mr. Lupo was sworn by Atty. Mariarz. He stated his credentials. Mr. Lupo had not testified before the Board. Mr. Kirkpatrick asked Mr. Hintz if he had any questions about Mr. Lupo's qualifications. Mr. Hintz said "No"; however, he noted the Plans would have to be signed and sealed. Atty. Knox said that will be done. Mr. Lupo displayed four Exhibits. They were marked A-5 through A-8. A-5 was an Isometric Drawing; A-6 showed the Basement Plan; A7 showed the First Floor Plan and A-8 showed Elevations. Mr. Lupo described the architectural concept. No additional signage is proposed. Employee and Handicapped spaces will be marked. Wines and liquors will be displayed in the new area and beer and micro-brews will be in the older section. There will be digital surveillance and tapes would be made available to law enforcement officials. The store is open from 9:00 a.m. until 10:00 p.m., Monday through Saturday and 10:00 a.m. to 7:00 p.m. on Sunday. All pavement will be replaced.

Mr. Reymann asked that applicant comply with his memorandum of November 7, 2008.

Applicant was amenable and would have to return to the Board if unable to comply.

Atty. Knox noted there was no one in the Public. Mr. Knox asked Mr. Holt to present additional information on the loading area design. Mr. Holt felt the loading area was adequate for the proposed purpose. Pedestrian traffic at the site was mentioned. Applicant was willing to address that issue.

Atty. Knox asked that the Use Variance be voted on first. Mr. Taibi made a motion to approve the Variance, based upon testimony presented tonight. Mr. Badenhausem seconded the motion.

Vote: Ayes: Mr. Taibi, Mr. Badenhausem, Mr. Ryland, Mr. Ford, Mr. Kirkpatrick

Mr. Ford made a motion to approve the Preliminary and Final Site Plan and Bulk Variances, based upon testimony presented tonight and subject to all conditions. Mr. Ryland seconded the motion.

Vote: Ayes: Mr. Ford, Mr. Ryland, Mr. Taibi, Mr. Badenhausem, Mr. Kirkpatrick

Correspondence: Howard Cohen's Letter Re: Federal Religious Land Use and Institutionalized Persons Act: To be discussed at the January meeting. **Highlands Regional Master Plan:** Mr. Hintz's letter dated 12/02/08: Mr. Hintz gave an overview of the Plan.

Comments from the Public/Other Discussion: Mr. Taibi had a question about the abandoned property adjacent to the State Police. Mr. Kirkpatrick said Zoning Official Richard McManus would be the person to contact about the matter.

Dates of Reorganization and First Regular Meeting: It was decided to reorganize on January 8, 2009. A Workshop will not be held in January. The first Regular Meeting will be held on January 22, 2009.

Motion to Adjourn: Mr. Ford made a motion to adjourn. Mr. Ryland seconded the motion. (8:55 p.m.).

Vote: All Ayes

Grace A. Kocher, Secretary